

DEVELOPMENT SERVICES DEPARTMENT

Planning & Zoning Division

MEMORANDUM

PZ 04-39-99

05/05/99 COUNCIL AGENDA ITEM

TO: Robert Rawls, Interim Town Administrator

THRU: Mark Kutney, AICP, Development Services Director

BY: Gayle Easterling, AICP, Planning & Zoning Manager

DATE: April 21, 1999

RE: ZB 2-1-99 - Ordinance

The attached Ordinance approves the rezoning of property located at 7080 State Road 84 from CC to B-3 with a conceptual master plan and deed restriction.

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CC, COMMERCE CENTER DISTRICT TO B-3, PLANNED BUSINESS DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from CC, Commerce Center District to B-3, Planned Business District; and,

WHEREAS, said notice was given and publication made as required by law on March 3, 1999, and a public hearing thereunder was held on April 21, 1999.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from CC, Commerce Center District to B-3, Planned Business District:

- a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.
- b. The applicant has agreed to record Deed Restrictions in a form which is attached hereto and made a part hereof as Exhibit "B", which said undertaking shall be binding upon the applicant and its successors in title.
- c. Development of the property which is subject of this Ordinance shall proceed only in conformity with the terms and conditions of the officially approved master land use plan of the development which is attached hereto and made a part hereof as Exhibit "C".

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as B-3, Planned Business District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 1999.

PASSED ON SECOND READING THIS _____ DAY OF _____, 1999.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 1999.

EXHIBIT "A"

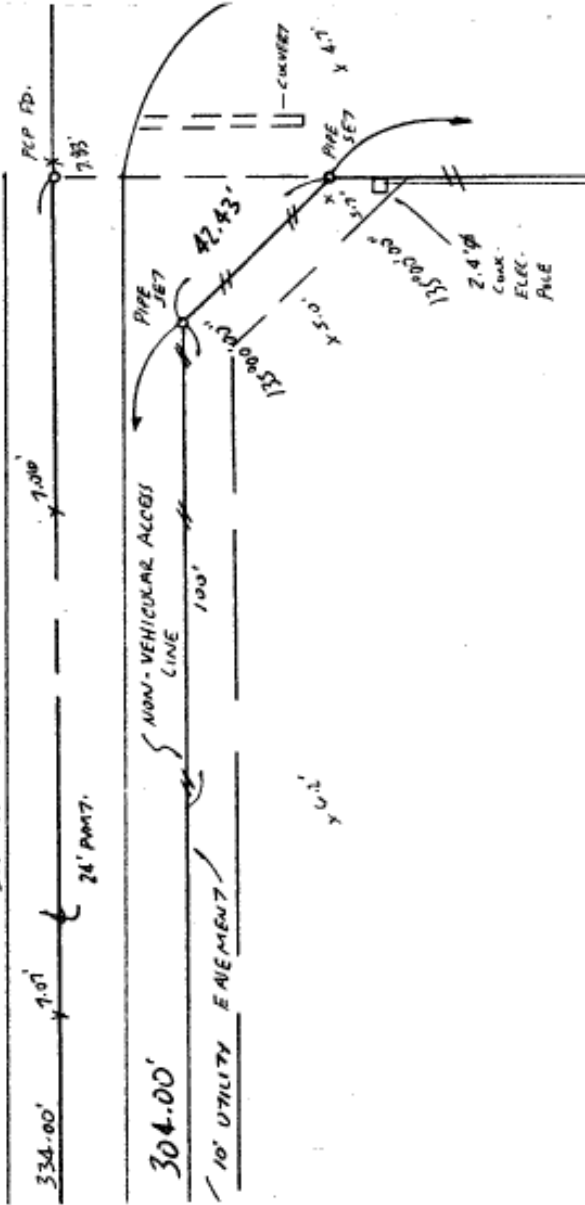
LEGAL DESCRIPTION

Parcel "A" of S & Z SUBDIVISION, according to the plat thereof, as recorded in Plat Book 126 at Page 37 of the Public Records of Broward County, Florida.

SURVEYORS NOTES:

- 1). Legal description provided by client.
- 2). Easements shown are from record plat.
- 3). Right of way information obtained from record plat.
- 4). In Federal Flood Zone AH Elev. 5', Panel #215 last revised 8-18-92.
- 5). Benchmark used-Broward County Benchmark #3005.
- 6). Elevations are referenced to National Geodetic Vertical Datum 1929 Adjustment (NGVD29).
- 7). Water & Sewer information obtained from City of Davie Utility Dept.

S.W. 71 TERR.



APR-27-99 12:13 PM

BREYER

Fax: (561) 761-1493

APR 27 1999

INSTR # 99219799
OR BK 29411 PG 0635
RECORDED 04/28/99 02:39 PM
COUNTY RECORDS DIVISION
BROWARD COUNTY
DEPUTY CLERK 1834

Prepared by and return to:

Name: Richard O. Coker, Jr., Esquire
Address: 1318 Southeast 1st Avenue
Fort Lauderdale, FL 33316
Telephone: (954) 341-1464

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANTS by FRANK SHEAR, GARY SHEAR, MARIO ZACCO and KARON ZACCO (hereinafter referred to collectively as "Owner"), is favor of THE TOWN OF DAVIE, a municipal corporation of the State of Florida ("Town").

WITNESSETH:

WHEREAS, Owner holds fee simple title to certain property in the Town consisting of 2.2 acres, more or less, which property is commonly referred to as The S & Z Subdivision and legally described as follows:

All of that certain property known as "S & Z Subdivision, according to the Plat thereof as recorded in Plat Book 116, Page 37, of the Public Records of Broward County, Florida ("S & Z Subdivision"); and

WHEREAS, the Owner is presently the applicant before the Town for a rezoning of the S & Z Subdivision to B-3, which zoning is consistent with the Town's land use designation; and

WHEREAS, the Owner is desirous of making a binding commitment to assure that the S & Z Subdivision shall be developed in accordance with the provisions of this Declaration.

NOW, THEREFORE, in consideration of the foregoing, the Owner hereby agrees and declares as follows:

1. That the above recitals are true and are incorporated hereto by reference.
2. The Owner hereby declares and voluntarily covenants and agrees that notwithstanding the B-3 zoning of the S & Z Subdivision, the following uses shall be prohibited, as such uses are defined in the Town's Land Development Code:
 - (a) Adult entertainment establishments, adult video stores and adult novelty stores;
 - (b) Fast food restaurants;
 - (c) Nurseries/child care facilities;
 - (d) Private clubs;
 - (e) Motor fuel pumps;
 - (f) Private schools or special schools; or

OR BK 29411 PG 0536

(g) Truck or trailer rentals

3. Amendment and Modification. This instrument may only be modified, amended or released as to any portion of the S & Z Subdivision by a written instrument executed by the then owner of the fee simple title to the S & Z Subdivision to be affected by such modification, amendment or release, providing that same has been approved by the Town Council.

4. Term of Covenant. This voluntary covenant on the part of Owner shall remain in full force and effect and shall be binding upon Owner, their successors and assigns, for an initial period of thirty (30) years from the date this instrument is recorded in the Public Records and shall be automatically extended for successive periods of ten (10) years thereafter, unless modified, amended or released prior to the expiration thereof.

5. Inspection and Enforcement. It is understood and agreed that any official inspector of the Town may have the right at any time during normal business hours to determine whether the conditions of this Declaration are being complied with. The prevailing party in any action or suit to enforce this Declaration shall be entitled to recover costs and reasonable attorney's fees. This enforcement provision shall be in addition to any remedies available under law.

6. Severability. Invalidity of any one of these covenants by judgment of a court of competent jurisdiction shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect, provided, however, that such invalidation may be grounds for the Town to amend the zoning and/or land use regulations applicable to the S & Z Subdivision.

7. Recording. This Declaration shall be filed of record among the Public Records of Broward County, Florida at the cost of the Owner and a recorded copy given to the Town within thirty (30) days of its recording.

8. Effective Date. If the Town approves the application of the Owner for the zoning of the S & Z Subdivision, as set forth above, and after said approval has become final and nonappealable, this instrument shall constitute a covenant running with the title to the S & Z Subdivision and be binding upon the Owner, their successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on this 27th day of APRIL, 1999.

Signed, sealed and delivered in the presence of:

[Signature]
Signature

JOHN R. BROWN
Printed Name

[Signature]
Signature

Wette LeFran
Printed Name

[Signature]
Signature

Frank Shear
Printed Name

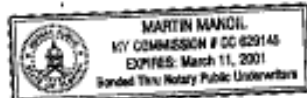
APRIL 27, 1999
Date

OR BK 29411 PG 0637

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgements, personally appeared FRANK SHEAR, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 27 day of April, 1999



[Signature]
Signature of Notary or Officer

Notarial Seal (stamped in black ink)
OR

Printed Name of Notary Public
State of Florida Commission
Number:

Signed, sealed and delivered in the
presence of:

[Signature]
Signature
JOHN R.F. PORFIRE
Printed Name

[Signature]
Signature
Vette LaFranc
Printed Name

[Signature]
Gary Shear
Date: April 27, 1999

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgements, personally appeared GARY SHEAR, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 27 day of April, 1999.



[Signature]
Signature of Notary or Officer

Notarial Seal (stamped in black ink)
OR

Printed Name of Notary Public
State of Florida Commission
Number:

OR BK 29411 PG 0638

Signed, sealed and delivered in the presence of:

Signature Mario Zacco
 Printed Name Mario Zacco
 Signature Betty Amador
 Printed Name Betty Amador

Date April 27, 1999

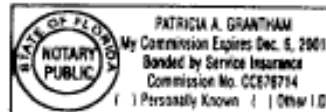
STATE OF FLORIDA
 COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgements, personally appeared MARIO ZACCO, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 27 day of April, 1999.

Patricia A. Grantham
 Signature of Notary or Officer

Notarial Seal (stamped in black ink)
 OR



Patricia A. Grantham
 Printed Name of Notary Public
 State of Florida Commission
 Number.

Signed, sealed and delivered in the presence of:

Signature Mario Zacco
 Printed Name Mario Zacco
 Signature Betty Amador
 Printed Name Betty Amador

Karon Zacco
 Karon Zacco
 Date April 27, 1999

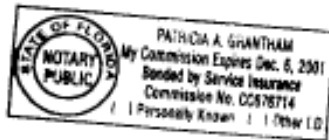
STATE OF FLORIDA
 COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgements, personally appeared KARON ZACCO, to me known to be the person

OR BK 29411 PG 0639

described in and who executed the foregoing instrument and acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 27 day of April, 1999.



Patricia A. Grantham
Signature of Notary or Officer

Notarial Seal (stamped in black ink)
OR

PATRICIA A. GRANTHAM
Printed Name of Notary Public
State of Florida Commission
Number:



I hereby certify this document to be a true, correct and complete copy of the record filed in my office. Dated this 28 day of April, 1999.

By *[Signature]*
Deputy Clerk

